

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KYLE KANE KICKING WOMAN ,

Defendant.

CR-13-94-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on September 15, 2015. (Doc. 32). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on September 8, 2015. (Doc. 29.) Kicking Woman admitted to having violated his conditions of supervised

release by: (1) failing to work regularly at a lawful occupation; (2) not permitting his probation officer to visit him at any time; and (3) consuming alcohol. (*Id.*) Judge Johnston found the evidence sufficient to establish that Kicking Woman violated the conditions of his supervised release. (*Id.*)

Judge Johnston recommends this Court revoke Kicking Woman's supervised release and that the Court sentence Kicking Woman to six (6) months imprisonment followed by thirty (30) months of supervised release. (Doc. 32) Judge Johnston further recommends that the conditions of supervised release previously imposed should remain in effect. (*Id.*)

Kicking Woman's criminal history category is II, the current violation is a Grade C, and the underlying offense is a Class C felony. The statutory range is a maximum of 24 months. The statutory and guideline term of supervised release is 36 months, less any custody time imposed. The United States Sentencing Guidelines call for four to ten months in custody.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. Kicking Woman's current violation is serious in nature. A sentence of six (6) months imprisonment with a term of thirty (30) months supervised release to follow is sufficient, but not greater than necessary.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 32) is ADOPTED IN FULL. **IT IS FURTHER**

ORDERED that Defendant KYLE KANE KICKING WOMAN shall be sentenced to **six (6) months imprisonment** followed by **thirty (30) months of supervised release**.

DATED this 29th day of September, 2015.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Brian Morris
United States District Court Judge